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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/525,002 03/14/00 PRZYTULLA

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QM12/0925

EXAMINER

CASTELLANO S
ART UNIT PAPER NUMBER

3727
DATE MAILED:

09/25/01

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/525,002

Applicant(s)

Przytulla

Examiner

Castellano

Group Art Unit

3727

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-19 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 1, 2 is/are allowed.
- ☒ Claim(s) 3-19 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☒ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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✕ The remarks responding to this action are not correct. The examiner never made the suggestions indicated in the first full paragraph of page 8. The examiner never indicated any allowable subject matter.

✕ The examiner considers the issue raised by improper examiner conduct as raised in the remarks submitted by applicant on June 26, 2001 on page 8 in the first two sentences of the last paragraph to be resolved. Refer to the interview summary prepared for the September 5, 2001 phone interview.

✕ The amendment filed June 26, 2001 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The amendment to the specification at page 15, line 2. The new matter is contained in the last three lines which states that the second wall portion being defined as that portion of the upper barrel edge that is above an uppermost section of the rib.

✕ Applicant is required to cancel the new matter in the reply to this Office Action.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

✕ Claims 1-19 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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Figure 6 discloses the upper barrel edge (28) of the invention. Applicant discusses the first portion and first chime wall (27) and second portion and second chime wall (29) in two different representation. Sometimes the first portion is referred to as being located below the second portion, on other occasions the second portion is referred to as being radially outwardly of the first portion. Figure 6 is consistent with both of these representation, in that, reference numeral 29 points to a point upwardly and outwardly of a point represented by reference numeral 27. The exact area of the first and second portions is not defined in Fig. 6 and no reference has been made in the specification to the exact area of these portions. The examiner has reviewed the specification and it is not apparent that the specification includes any representation of the exact areas of these portions. It is not apparent that the application contains reference to the exact area of these portions by incorporation by reference. Therefore, to delineate the area by stating that the second portion is defined as that section of the upper barrel edge that is above the an uppermost section of the rib or by stating that the second chime wall is defined as that section of the chime portion that is above an uppermost section of the rib is considered new matter.

✕ The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

✕ Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

✕ Claims 3, 4, 18 and 19 contain reference to the second portion being defined as that section of the upper barrel edge that is above an uppermost section of the rib in the last two lines

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of each claim. Each claim contains a limitation similar to that found in lines 4 and 5 of claim 3 wherein the second portion extends upwardly from the first portion at a location radially outwardly of the first portion. The second portion is generally aligned vertically with the first portion rather than located radially outwardly to the first portion when Fig. 6 is viewed and when the second portion is defined as the section of the upper barrel edge above the uppermost section of the rib. Likewise, claims 5-17 are indefinite for similar reasoning when the language represented by the last three lines of part 3 of claim 5 are examined with the language represented by the last two lines of claim 5.

X It is suggested that the word "adjacent" on line 12 of claim 5 be deleted to provide a less awkward grammatical sentence structure. The limitation "contiguous with adjacent" is indefinite because it can't be determined if "contiguous with" (broad meaning) or "adjacent to" (narrow meaning) is meant.

X Claim 19 recites the limitation "said outer lid edge" in line 5 of page 14. There is insufficient antecedent basis for this limitation in the claim. The previous reference is to: "an outer peripheral lid edge."

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3-14, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Fehres et al. (Fehres).

Note that Fehres is not being applied as previously stated and discard the colored representations of Fig. 3 of Fehres. Fehres' boundaries can be redrawn to show that the second

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portion is defined as that section of the upper barrel edge that is above an uppermost section of the rib and to show the rib projecting radially outwardly beyond the outward extent of the second portion.

Claims 5-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Hammes et al. ('934) (Hammes).


Note that Hammes is not being applied as previously stated and discard the colored representations of Fig. 1 of Hammes. Hammes' boundaries can be redrawn to show that the second portion is defined as that section of the upper barrel edge that is above an uppermost section of the rib and to show the rib projecting radially outwardly beyond the outward extent of the second portion.

Claims 1 and 2 are allowed.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is (703)-308-1035.


Stephen Castellano
Primary Examiner
Art Unit 3727

April 5, 2001